

## § 75.204

(4) Funding Opportunity Number (required, if applicable). If the HHS awarding agency has assigned or will assign a number to the funding opportunity announcement, this number must be provided;

(5) Catalog of Federal Domestic Assistance (CFDA) Number(s);

(6) Key Dates. Key dates include due dates for applications or Executive Order 12372 submissions, as well as for any letters of intent or pre-applications. For any announcement issued before a program's application materials are available, key dates also include the date on which those materials will be released; and any other additional information, as deemed applicable by the relevant HHS awarding agency.

(b) The HHS awarding agency must generally make all funding opportunities available for application for at least 60 calendar days. The HHS awarding agency may make a determination to have a less than 60 calendar day availability period but no funding opportunity should be available for less than 30 calendar days unless exigent circumstances require as determined by the HHS awarding agency head or delegate.

(c) *Full Text of Funding Opportunities.* The HHS awarding agency must include the following information in the full text of each funding opportunity. For specific instructions on the content required in this section, refer to appendix I of this part.

(1) Full programmatic description of the funding opportunity.

(2) Federal award information, including sufficient information to help an applicant make an informed decision about whether to submit an application. (See also § 75.414(c)(4)).

(3) Specific eligibility information, including any factors or priorities that affect an applicant's or its application's eligibility for selection.

(4) Application Preparation and Submission Information, including the applicable submission dates and time.

(5) Application Review Information including the criteria and process to be used to evaluate applications. See also §§ 75.204 and 75.205.

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(6) Federal Award Administration Information. See also § 75.210.

[79 FR 75889, Dec. 19, 2014, as amended at 81 FR 3014, Jan. 20, 2016]

### § 75.204 HHS funding agency review of merit of proposals.

For competitive grants or cooperative agreements, unless prohibited by Federal statute, the HHS awarding agency must design and execute a merit review process for applications. This process must be described or incorporated by reference in the applicable funding opportunity (see appendix I to this part.) See also § 75.203.

### § 75.205 HHS awarding agency review of risk posed by applicants.

(a) *Review of OMB-designated repositories of governmentwide data.* (1) Prior to making a Federal award, the HHS awarding agency is required by 31 U.S.C. 3321 and 41 U.S.C. 2313 note to review information available through any OMB-designated repositories of governmentwide eligibility qualification or financial integrity information as appropriate. See also suspension and debarment requirements at 2 CFR parts 180 and 376.

(2) In accordance 41 U.S.C. 2313, the HHS awarding agency is required to review the non-public segment of the OMB-designated integrity and performance system accessible through SAM (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)) prior to making a Federal award where the Federal share is expected to exceed the simplified acquisition threshold, defined in 41 U.S.C. 134, over the period of performance. At a minimum, the information in the system for a prior Federal award recipient must demonstrate a satisfactory record of executing programs or activities under Federal grants, cooperative agreements, or procurement awards; and integrity and business ethics. The HHS awarding agency may make a Federal award to a recipient who does not fully meet these standards, if it is determined that the information is not relevant to the current Federal award under consideration or there are specific conditions that can appropriately mitigate the effects of

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the non-Federal entity's risk in accordance with § 75.207.

(b) In addition, for competitive grants or cooperative agreements, the HHS awarding agency must have in place a framework for evaluating the risks posed by applicants before they receive Federal awards. This evaluation may incorporate results of the evaluation of the applicant's eligibility or the quality of its application. If the HHS awarding agency determines that a Federal award will be made, special conditions that correspond to the degree of risk assessed may be applied to the Federal award. Criteria to be evaluated must be described in the announcement of funding opportunity described in § 75.203.

(c) In evaluating risks posed by applicants, the HHS awarding agency may use a risk-based approach and may consider any items such as the following:

- (1) Financial stability;
- (2) Quality of management systems and ability to meet the management standards prescribed in this part;
- (3) History of performance. The applicant's record in managing Federal awards, if it is a prior recipient of Federal awards, including timeliness of compliance with applicable reporting requirements, conformance to the terms and conditions of previous Federal awards, and if applicable, the extent to which any previously awarded amounts will be expended prior to future awards;
- (4) Reports and findings from audits performed under subpart F of this part or the reports and findings of any other available audits; and
- (5) The applicant's ability to effectively implement statutory, regulatory, or other requirements imposed on non-Federal entities.

(d) In addition to this review, the HHS awarding agency must comply with the guidelines on government-wide suspension and debarment in 2 CFR part 180, and must require non-Federal entities to comply with these provisions. These provisions restrict Federal awards, subawards and contracts with certain parties that are debarred, suspended or otherwise ex-

cluded from or ineligible for participation in Federal programs or activities.

[79 FR 75889, Dec. 19, 2014, as amended at 81 FR 3014, Jan. 20, 2016; 81 FR 19044, Apr. 4, 2016]

### **§ 75.206 Standard application requirements, including forms for applying for HHS financial assistance, and state plans.**

(a) *Paperwork clearances.* The HHS awarding agency may only use application information collections approved by OMB under the Paperwork Reduction Act of 1995 and OMB's implementing regulations in 5 CFR part 1320, Controlling Paperwork Burdens on the Public. Consistent with these requirements, OMB will authorize additional information collections only on a limited basis.

(b) If applicable, the HHS awarding agency may inform applicants and recipients that they do not need to provide certain information otherwise required by the relevant information collection.

(c) *Forms for applying for HHS financial assistance.* HHS awarding agencies should use the Standard Form 424 (SF-424 Application for Federal Assistance) series (or its successor) and its program narrative whenever possible. Alternative mechanisms may be used for formula grant programs which do not require applicants to apply for funds on a project basis.

(1) Applicants shall use the SF-424 series or those forms and instructions prescribed by the HHS awarding agency.

(2) For Federal programs covered by Executive Order 12372, as amended by Executive Order 12416, the applicant shall complete the appropriate sections of the SF-424 indicating whether the application was subject to review by the State Single Point of Contact (SPOC). The name and address of the SPOC for a particular State can be obtained from the HHS awarding agency or the Catalog of Federal Domestic Assistance. The SPOC shall advise the applicant whether the program for which application is made has been selected by that State for review. (See also 45 CFR part 100.)

(3) HHS awarding agencies that do not use the SF-424 series will indicate